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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/621,126

07/16/2003

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9621.1001

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08/06/2007

EXAMINER

SEVERSON, RYAN J

ART UNIT

PAPER NUMBER

3731

MAIL DATE

DELIVERY MODE

08/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/621,126	Applicant(s) SIRHAN ET AL.	
	Examiner Ryan Severson	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-106, 117-120 and 136-139 is/are pending in the application.
- 4a) Of the above claim(s) 47, 48, 53-74, 76-106 and 117-120 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46, 49-52, 75 and 136-139 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amended abstract and specification (regarding the priority claim) filed 30 April 2007 is acknowledged and accepted.

Response to Arguments

2. Applicant's arguments with respect to claims 46 and 49-52 and 75 (Yoon and Stevens et al.) have been considered but are moot in view of the new ground(s) of rejection.
3. Applicant's arguments filed 02 May 2007 (regarding Hieshima et al.) have been fully considered but they are not persuasive. For a reference to properly anticipate a claim, the structure must be disclosed, and the structure must be *capable* of performing the functional limitations (i.e. intended use) set forth in the claim. With regards to Hieshima et al. reference, the entire structure as claimed by applicant is disclosed in the prior art reference. Further, there is no structure present in Hieshima et al. reference that would prevent it from being placed about the aneurysm instead of inside the vessel.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 46, 49-52, 75, and 136-139 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hieshima et al. (6,063,111) in view of Ken et al.**

(5,749,891). Hieshima et al. (hereinafter Hieshima) reference discloses an elongate containment member having both a wire and ribbon composition (see figure 2). As described above, the device of Hieshima is capable of being disposed about an aneurysm. As shown in figure 2A, the device has a slightly smaller diameter than the diameter of the healthy vessel when in the expanded "relaxed" configuration. However, Hieshima reference does not disclose a longitudinal guide member as claimed.

Attention is drawn to Ken et al. (hereinafter Ken) reference, which teaches a longitudinal guide member (210) with a straight proximal portion, a curved distal portion, and a port at a distal end (see figure 7B) used to contain (restrict) a coil-shaped medical device while in the guide member and allowing it to relax when released from the guide member, thereby providing a delivery device with a substantially reduced diameter leading to a more minimally invasive procedure which reduces healing time after a surgical procedure. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the guide member of Ken to deliver the containment member of Hieshima to minimize the invasiveness of the procedure thereby reducing healing time after a surgical procedure.

6. Regarding claims 136 and 137, it is well known in the art that the length and radius of curvature of a catheter (guide member) distal portion may be varied depending on the specific application of use. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the length and radius

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of curvature of Ken reference as claimed to allow the device to be used without creating a guide member that is too large (causing damage to tissue) or too small (not reaching the desired surgical site during the minimally invasive procedure).

7. Regarding claims 138 and 139, Ken reference shows the curved portion bends at approximately 90 degrees, thereby creating deflection points on both the inside and the outside (left and right, respectively) of the bent portion.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Severson whose telephone number is (571) 272-3142. The examiner can normally be reached on Monday - Friday 9:00 - 5:30.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

R.S.

Ryan Severson
July 31, 2007

[Signature]
(JACKIE) TAN-UYEN HO
SUPERVISORY PATENT EXAMINER
08/01/07